

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/939,378	GARVEY, JOSEPH FRANKLIN
	Examiner Tuan A. Vu	Art Unit 2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 9/6/2005.
2.  The allowed claim(s) is/are 1-8.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to the Appeal Brief filed 9/6/2005.

As indicated in the Appeal Brief, claims 1-8 have been appealed, and are pending in the office action.

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Antony P Ng, Reg# 43,427 on 11/28/05.

The application has been amended as follows:

In the CLAIMS,

1) Replace all 'program code means for' with -- means for -- in the following claims.

Claim 1: lines 4, 10, 13, 16, 19, 22, 25, and 28;

Claim 2: line 1;

Claim 3: line 1

Claim 4: line 1

Claim 5: line 1

Claim 6: lines 3, 8, and 12

Claim 7: lines 3, 8, 12, 15, and 19

Claim 8: lines 3, 7, and 13

Note: The reason for this change to is to impart the indicated claims with some hardware or tangible elements -- whereas the previously recited ‘program code means’ amounts to software only elements, a non-statutory type of subject matter -- which would be required to overcome a potential USC 101 type of rejection.

- 2) In Claim 1, line 28: after ‘*means for indicating*’, insert –*that* – so to make it ‘means for indicating that said branch destination in … is a branch to said first …’
- 3) In Claim 1, line 29: Replace ‘*branch locations*’ with --*branch location* -- (i.e. *location* without the ‘s’)

#### ***EXAMINER’S STATEMENT OF REASONS FOR ALLOWANCE***

3. Claims 1-8 are allowed.

The following is an examiner’s statement of reasons for allowance:

The prior art taken separately or jointly does not suggest or teach the following features.

An assembler for processing structured assembly language expressions in structured assembly language programming, the assembler comprising means (i) for recognizing a structured assembly language expression’s mnemonics containing arg1 cc arg2, wherein cc is condition code, arg1 and arg2 are valid arguments for a comparison opcode being selected based on the form of said mnemonics or nature of said expression’s elements; (ii) for constructing a data structure referencing said arg1, said arg2, said cc, and a branch destination; for generating a comparison opcode in response to the elements of the said data structure; for generating a conditional branch based on said condition code; (iii) for generating a first branch location for execution to proceed as if said structured language expression is true; a second branch location to

proceed as if said structured expression is false; and a third branch location to proceed to the end of said structured language expression; and (iv) and for indicating said branch destination in said data structure is a branch to said first, second or third branch location; as recited in claim 1.

Leeper, "Structured Assembly Language in VAX-11 MACRO", discloses Macro pseudo-code in structured language format having arguments and comparison operators leading to respective branch instruction and location representation in assembly language constructs; wherein the pseudo code is derived from templates, both of which written by developers, in order for the pseudo code to be mapped into corresponding VAX-11 assembly language. Leeper does not suggest or disclose features being generated from a design assembler such a structure assembly language expression's mnemonic of the form *arg1 cc arg2* as in (i); constructing of a data structure with a branch destination as in (ii), generating 3 branch locations based on the structure assembly language expression evaluation as in (iii) in order to indicate, as in (iv), that said branch destination in the data structure is one of the 3 branch locations generated from (iii).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 ( for non-official correspondence – please consult Examiner before using) or 571-273-8300 ( for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT  
November 22, 2005

*Kakali Chaki*  
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